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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)	
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		09/551,273	April 18, 2000
		First Named Inventor	
		Nozomu Saito	
Art Unit		Examiner	
2615		Lun S. Lao	
<p>Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.</p> <p>This request is being filed with a notice of appeal.</p> <p>The review is requested for the reason(s) stated on the attached sheet(s). Note: No more than five (5) pages may be provided.</p>			
<p>I am the</p> <p><input type="checkbox"/> applicant/inventor.</p> <p><input type="checkbox"/> assignee of record of the entire interest. See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)</p> <p><input type="checkbox"/> attorney or agent of record. Registration number _____</p> <p><input checked="" type="checkbox"/> attorney or agent acting under 37 CFR 1.34. Registration number if acting under 37 CFR 1.34 <u>30,665</u></p>		<p><u><i>James P. Naughton</i></u> Signature</p> <p><u>James P. Naughton</u> Typed or printed name</p> <p><u>312-321-4723</u> Telephone number</p> <p><u>July 7, 2006</u> Date</p>	
<p>NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below*.</p>			
<p><input checked="" type="checkbox"/> *Total of <u>3</u> forms are submitted.</p>			

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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on
July 7, 2006

Date of Deposit

James P. Naughton, Reg. No. 30,665

Name of Applicant, Assignee or
Registered Representative

James P. Naughton
Signature

July 7, 2006

Date of Deposit

Our Case No. 9333/237

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Nozomu Saito, et al.

Serial No.: 09/551,273

Filing Date: April 18, 2000

For: MICROPHONE SYSTEM

Examiner: Lun S. Lao

Group Art Unit No.: 2615

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action dated May 8, 2006, Applicants request review of the final rejection in the above-identified application. This review is being requested because of clear errors in the Examiner's rejections, and the Examiner's omission of essential elements needed for a prima facie rejection.

A Notice of Appeal accompanies this Request.

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REMARKS

Claims 1-4, 8, 9, 11, 13-17, and 20-29 are pending, including independent claims 1, 8, 13, 17, 22 and 26. All claims were rejected on the basis of the identical rejections as in the previous Office Action dated November 3, 2005. The most recent listing of claims is provided in Applicants' Response dated February 10, 2006.

As background, Applicants' invention generally relates to a noise reduction circuit comprising two directional microphones that are positioned close together but with different orientations relative to a speaker's vocalizing direction. An adaptive filter simulates a noise signal outputted from a primary microphone by using a noise signal outputted from the other microphone, and subtracts the simulated noise signal from the output of the primary microphone. More specifically, Applicants' invention relates to the optimization of such a noise reduction circuit, including improvements in the placement and orientation of the microphones, and in the specific circuitry itself. The various claims specifically recite the optimized configurations discovered by Applicants, which configurations are not described or suggested in the cited art.

In response to the Office Action dated November 3, 2005, Applicants submitted a detailed Response on February 10, 2006 explaining the deficiencies of the rejections. Notwithstanding this response, the present Office Action repeats the previous rejections with no substantive change in the explanation of the rejections. Therefore, Applicants' February 10th Response continues to be an appropriate response to the rejections, and Applicants hereby refer to their February 10, 2006 Response at pp. 8-15.¹ Among other things, Applicants submit that the present Office Action mischaracterizes the cited art; assumes hypothetical situations that are not disclosed in or suggested by the cited art, or that are contrary to the teachings of the references; and ignores explicit language in Applicants' claims.

In his "Response to Arguments," the Examiner questions (for the first time) certain relative terminology in Applicants' claims, such as "approximately" (*e.g.*, "approximately 0°") or "about" (*e.g.*, "about the same height"). However, such relative


¹ Applicants apologize for the reference to a block of seven pages and submit that this length was necessary to comprehensively address the large number of references cited and faulty arguments made in 20 pages of the Office Action.

terminology is appropriate to prevent an unreasonably narrow recitation of the invention. See, e.g., Playtex Products, Inc. v. Procter & Gamble Co., 400 F.3d 901, 907 (Fed. Cir. 2005) (“words of approximation, such as ‘generally’ and ‘substantially’, are descriptive terms commonly used in patent claims to avoid a strict numerical boundary to the specified parameter”); M.P.E.P. § 2173.05(b). Applicants submit that one of ordinary skill in the art would understand what is claimed, particularly in light of the specification and drawings which include descriptions of Applicants’ testing, as well as diagrams, tables and graphs (see, e.g., Application at p. 12, line 26 to p. 13, line 30).

The Examiner also ignored Applicants’ arguments regarding claim 13 for inexplicable reasons. In his “Response to Arguments,” the Examiner asserts that Applicants’ arguments about the “same error signal” and the “same subtracter” are moot, because those limitations supposedly are not claimed. However, Applicants’ argument clearly and directly correlated the “same error signal” with the claim language “said error signal,” and referred to the “same subtracter” in discussing the claim language “said subtracter.” It is an axiom of claim interpretation that “said” refers to the same thing recited earlier in the claim, so that Applicants’ argument was perfectly accurate and proper.

In conclusion, in view of the arguments presented in their February 10, 2006 Response and the supplemental arguments presented herein, Applicants submit that the Office Action fails to set forth prima facie rejections for the claims of the application. Accordingly, Applicants respectfully request a finding that the application is allowed on the existing claims.

Respectfully submitted,


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